

REMARKS/ARGUMENTS

In the Office Action mailed November 23, 2009 (hereinafter, "Office Action"), claims 1-20 stand rejected under 35 U.S.C. § 103. By this paper, claims 1, 13, 15-16 and 18-19 are being amended.

Applicant respectfully responds to the Office Action.

I. Claims 1-3 and 5-20 Rejected Under 35 U.S.C. § 103(a)

Claims 1-3 and 5-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0129152 to McBrearty et al. (hereinafter, "McBrearty") in view of U.S. Patent No. 6,889,210 to Vainstein (hereinafter, "Vainstein"). Applicant respectfully requests reconsideration in view of the above claim amendments and the following remarks.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection "should be made explicit." KSR, 2007 U.S. LEXIS 4745, at **37. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully submits that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the subject matter in these claims.

Independent claim 1 has been amended to recite that "the sensitive file is not identified until after the connection has been identified as not being in the authorized connection list." Support for

this claim subject matter is found in Figure 2 and paragraphs [0047]-[0052] of Applicant's specification. Thus, claim 1 requires that the sensitive file is not identified until after the connection has been identified as not being in the authorized connection list. The cited references fail to teach or suggest that the "sensitive file is not identified until after the connection has been identified as not being in the authorized connection list."

With respect to McBrearty, this reference teaches that a user makes a "request" for "access to a file" and then "a determination is made... as to the authorization level required for access to the file" and "a determination is made as to whether the user ID has the appropriate authorization level." (McBrearty, paragraph [0022]). Thus, in McBrearty, the specific file is identified in the request, and then using this identified file, a comparison is made regarding the level of authorization needed to access the identified file and the level of authorization associated with the user ID. (See id.). Having the file identified in the request (and then used to determine whether the level of authorization is sufficient) does not teach or suggest the claim subject matter, which requires that the "sensitive file is not identified until after the connection has been identified as not being in the authorized connection list." McBrearty identifies the file as part of the submitted request, whereas the present amended claim 1 requires that the file is not identified until after the connection list has been reviewed to determine whether the user is listed in the authorized connection list. Identifying the file as part of the submitted request does not satisfy the claim language that indicates that the "sensitive file is not identified until after the connection has been identified as not being in the authorized connection list." For this reason, McBrearty fails to teach or suggest the subject matter of amended claim 1.

With respect to Vainstein, the Office Action cites to this reference as allegedly teaching the use of "other access prevention tasks" such as "encrypting the file or locking the file." (Office Action, page 2; see also Office Action, page 4 ("Vainstein teaches a method of maintaining a sensitive file on a computing system and encrypting, locking or moving the file to a protected storage to prevent access to the file when an unauthorized user seeks access to the file").) The Office Action has not cited any structure in Vainstein that would allegedly constitute an "authorized connection list." Similarly, the Office Action has not cited any teaching in Vainstein that would allegedly

constitute “accessing an authorized list to determine if the user or connection is authorized.” Accordingly, Vainstein fails to teach or suggest the claim subject matter that requires that “the sensitive file is not identified until after the connection has been identified as not being in the authorized connection list.”

In view of the foregoing, Applicant submits that the cited portions of McBrearty and Vainstein fail to teach or suggest all the subject matter of amended claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Claims 2-3 and 5-12 depend directly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 2-3 and 5-12 be withdrawn.

Claims 13, 15 and 18 have been amended to recite that “the sensitive file is not identified until after the connection has been identified as not being in the authorized connection list.” As discussed above, the cited portions of McBrearty and Vainstein do not teach or suggest this claimed subject matter. Accordingly, Applicant respectfully submits that claims 13, 15 and 18 are allowable.

Claim 14 depends directly from claim 13 and is therefore allowable for at least the same reasons. Claims 16-17 depend directly from claim 15 and are therefore allowable for at least the same reasons. Claims 19-20 depend directly from claim 18 and are therefore allowable for at least the same reasons.

II. Claim 4 Rejected Under 35 U.S.C. § 103(a)

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over McBrearty in view of U.S. Patent Application Publication No. 2003/0056095 to Elliott et al. (hereinafter, “Elliott”). Applicant respectfully requests reconsideration in view of the above claim amendments and the following remarks.

The standard to establish a *prima facie* case of obviousness is provided above.

Applicant respectfully submits that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the subject matter in these claims.

Claim 4 depends indirectly from claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 4 be withdrawn.

III. Conclusion

Applicant respectfully asserts that all pending claims are patentably distinct from the cited references, and requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

/Wesley L. Austin/

Wesley L. Austin
Reg. No. 42,273
Attorney for Applicant

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AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
Salt Lake City, Utah 84101
Telephone: (801) 537-1700